



RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 11-22

☐ Immediately upon filing.

☒ Later (specify) March 1, 2011

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes

☒ No

If Yes, explain:

Purpose: Amend personal use fishing rules

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 220-56-350 and WAC 220-56-380

Suspended:

Statutory authority for adoption: RCW 77.12.047 and RCW 77.04.020

Other authority :

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Penrose Point State Park was closed in 2010 due to overharvest in 2009. Surveys indicate that the clam population has increased, in part due to Washington Department of Fish and Wildlife enhancement efforts, allowing a return to the former three-month season. Surveys at Point Whitney and Point Whitney Lagoon indicate that clam populations have declined, requiring a two-week delay in the season opener at Point Whitney, and an earlier opening of the season at Point Whitney Lagoon, when effort will be reduced and conflicts with the Hood Canal shrimp fishery will be avoided. Oyster season at this beach should coincide for enforcement purposes with the clam season, which is being re-opened March 1. Sufficient oysters exist to provide a three-month season. There is insufficient time to adopt permanent rules.

Date adopted: February 15, 2011

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 15, 2011

TIME: 11:10 AM

WSR 11-05-081

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>2</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 220-56-35000L Clams other than razor clams – Areas and seasons.

Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Penrose Point State Park: Open March 1, 2011, until further notice.
- (2) Point Whitney (excluding Point Whitney Lagoon): Open March 15, 2011 through April 30, 2011.
- (3) Point Whitney Lagoon: Open March 1, 2011 through March 31, 2011.

NEW SECTION

WAC 220-56-38000U Oysters – Areas and seasons.

Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to take and possess oysters for personal use from the following public tidelands except during the open periods specified herein:

- (1) Penrose Point State Park: Open March 1, 2011, until further notice.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(x) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

() That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

() That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

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Oyster season at this beach should coincide for enforcement purposes with the clam season, which is being re-opened March 1. Sufficient oysters exist to provide a three-month season. There is insufficient time to adopt permanent rules.

(11-22, 2/15/2011)

